

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Broadcast Localism

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) MB Docket No. 04-233
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To: The Commission

REPLY COMMENTS OF BARNSTABLE BROADCASTING, INC.

Barnstable Broadcasting, Inc. (“Barnstable”) hereby submits its reply comments in response to the FCC’s July 1, 2004 Notice of Inquiry (“*NOI*”) in the above-captioned proceeding.¹ Barnstable is a privately held, mid-sized group radio station operator, and is the licensee of fifteen radio stations located in Virginia, North Carolina, South Carolina, and New York. In response to the *NOI* and the comments filed in this proceeding, Barnstable urges the Commission to avoid restricting broadcasters’ practice of prerecording voice material, particularly when the practice is used within a single market simply to record material by local on-air talent for use later.

In its *NOI*, the Commission defines “voice-tracking” as “the practice of importing ‘popular out-of-town personalities from bigger markets to smaller ones, customizing their programs to make it sound as if the DJs are actually local residents.’”² The *NOI* asks what steps the FCC might take with respect to voice-tracking “to preserve localism,” and whether any

¹ *In the Matter of Broadcast Localism*, MB Docket No. 04-233, FCC 04-129 (rel. July 1, 2004) (“*NOI*”).

² *Id.* at ¶ 38.

particular practices should be defined as “inconsistent with a broadcaster’s programming obligations.”³

Notwithstanding the *NOI*’s definition, the term “voice-tracking,” as commonly understood in the radio industry, refers broadly to any type of prerecording of voice material for shows that may air subsequent to the recording. This technology has been used for at least a decade, and has been widely used by Barnstable and virtually all other broadcasters, particularly since the advent of digital audio storage systems for recording that are PC-based. Such technology provides broadcasters with much needed flexibility to accommodate the schedules of their on-air personalities, and is often employed to provide programming for late evening and overnight periods when stations may reasonably operate with less personnel than during daytime hours.

Barnstable agrees with the many commenters who point out that restrictions on “voice-tracking” – whether inter-market or intra-market – are not necessary to ensure that radio stations continue to serve their local communities.⁴ Barnstable is particularly concerned, however, with ensuring that any rule the Commission might unjustifiably adopt in this area avoid restricting the longstanding practice of using prerecorded voice material within a single market. Certainly, when recording technology is used within a local market to provide voice material for broadcast at a time when a particular on-air personality cannot be at the station, it raises no concerns regarding localism whatsoever. In such circumstances, the programming ultimately aired is just as “local” as it would be if the material were being produced live; the only difference is that it was recorded earlier in the day or the week. In any ruling that it might issue on the subject, the

³ *Id.*

⁴ *See, e.g.*, Comments of Clear Channel Communications, Inc., at 32-33; Comments of the National Association of Broadcasters, at 53-55.

FCC should therefore distinguish clearly for broadcasters between “inter” and “intra” –market voice-tracking so that no confusion attends the ruling in question.

In sum, Barnstable submits that any attempt by the Commission to restrain broadcasters’ use of so-called “voice-tracking” would constitute an unjustifiable interference with broadcasters’ programming practices and would exceed the FCC’s authority. Restricting broadcasters’ discretion to use prerecorded voice material would be particularly problematic, however, to the extent that such a restriction might infringe on the right to use such material within a local market. When the technology is used locally, there is simply no conceivable possibility of any potential harm to localism at all.

Respectfully submitted,

/S/

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